IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2006

Coram

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

H.C.P.No.323 of 2006

Anbu .. Petitioner

Vs.

1.State rep. by
The Secretary to Government,
Dept. of Prohibition and Excise,
Fort St. George, Chennai.

2.The District Magistrate and District
Collector, Kancheepuram,
Kancheepuram District.

3.The Inspector of Police,
D5 Palur Police Station,
Kancheepuram District. .. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of habeas corpus, holding the impugned order of detention passed in B.D.F.G.I.S.V.No.51/2005 dated 09.11.2005 under Act 14 of 1982 as highly illegal, arbitrary and unconstitutional and directing the respondents to produce the petitioner/detenu Anbu, S/o. Makku @ Harichandran aged 25 years before this Court, now confined in Central Prison, Chennai and set him at liberty and to call for the records pertaining to the order of detention and set aside the same.

For Petitioner .. Mr.R.Venkatesan

For Respondents .. Mr.M.Babu Muthumeeran,
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, by name Anbu, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 09.11.2005, challenges the same in this Petition.

2. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor of the respondents.

3.At the foremost, learned counsel for the petitioner submits that there was delay in disposal of the representation. With reference to the said claim, the learned Additional Public Prosecutor has furnished the particulars, which show that the representation of the detenu dated 23.03.2006, was received by the Government on 24.03.2006, remarks were called for on 27.03.2006 and the remarks were received on 31.03.2006. Thereafter, the file was dealt with by the Under Secretary and Deputy Secretary on 04.04.2006 and finally, the Minister for Prohibition and Excise passed orders on 05.04.2006. The rejection letter was prepared on 10.04.2006 and the same was sent to the detenu on 12.04.2006 and served to the detenu on 13.04.2006.

4. By pointing out that though the Minister has passed an order on 05.04.2006, learned counsel for the petitioner contended that there is no reason to take time till 10.04.2006 by the officers for preparation of the rejection letter. We verified those dates in between 05.04.2006 and 10.04.2006. Among those dates 08.04.2006 and 09.04.2006 are holidays. If we exclude those holidays, we are of the view that the time taken by the Officers cannot be construed as a long delay. We are satisfied with the details furnished by the respondents.

5. Learned counsel appearing for the petitioner submitted that relevant documents, though asked for in the representation dated 23.03.2006, were not furnished to the detenu, which prevented him from making an effective representation. As regards the said contention, the Government, after considering the said representation sent a reply on 10.04.2006 wherein it is stated that the wound certificate, accident register, discharge summary of one Mohan and other hospital records were not part of the paper

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book supplied to the detenu. In the same reply, it is stated that since the detenu himself admitted the guilt and made a confession statement and also taking note of the fact that those documents have not been relied on by the detaining authority, the request of the detenu was rejected. We have also verified those documents.

6. The Courts have held that merely because some documents have been referred to there is no need to supply the same to the detenu. It is settled legal position that the documents which were relied on by the detaining authority to arrive at the subjective satisfaction alone are to be supplied. In the light of the reply dated 10.04.2006, we are unable to accept the contention of the learned counsel for the petitioner.

7. Learned counsel for the petitioner, after taking us through page No.155 of the paper book submitted that reference is made to one Devi and Joshwa as if they are his wife and son, which amply shows the non-application of mind on the part of the detaining authority. In the light of the above said contention, we have verified the relevant documents. As rightly pointed out by the learned Additional Public Prosecutor, the details furnished at the bottom of the said page alone are relevant which refers to the date and time of offence, crime number, the nature of offence involved and the name and address of the accused. From the document itself we are satisfied that all the required details have been correctly stated and we are unable to accept the contention of the learned counsel for the petitioner.

8. Except the above said contentions, no other contention was raised. We do not find any valid ground for interference. Consequently, the Habeas Corpus Petition fails and the same is dismissed.

mmi

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Secretary to Government,
Dept. of Prohibition and Excise,
Fort St. George, Chennai.

2.The District Magistrate and District
Collector, Kancheepuram,
Kancheepuram District.

3.The Inspector of Police,
D5 Palur Police Station,
Kancheepuram District.

4.The Superintendent,
Central Prison, Chennai.
(in duplicate for communication to the detenu)

5. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

6.The Public Prosecutor,
High Court, Madras.

MAB(CO)
NM(04.07.2006)

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